Is this email not displaying correctly? Try the web version.

November 16 2026

Ocean and Coastal Case Alert

The National Sea Grant Law Center is pleased to offer the November 2026 issue of *Ocean and Coastal Case Alert*.

The Case Alert is a monthly newsletter highlighting recent court decisions impacting ocean and coastal resource management. (NSGLC-26-03-11).

Forward to a friend

Know someone who might be interested in our monthly newsletter?

Forward this email their way and help spread the word.

FOURTH CIRCUIT

S.C. Coastal Conservation League v. U.S. Army Corps of Eng'rs, Charleston Dist., No. 25-1797, 2026 WL 3179802 (4th Cir. Oct. 23, 2026).

Environmental organizations challenged a Clean Water Act § 404 permit for development on a property in Charleston, South Carolina, known as Cainhoy Plantation. The property comprises over 9,000 acres, including more than 2,500 acres of wetlands, and the development plan would impact 181.5 acres of wetlands. The plaintiffs claimed that the U.S. Army Corps of Engineers (Corps) acted arbitrarily and capriciously in issuing the permit by failing to properly consider alternatives with fewer wetlands impacts. The Corps' Environmental Assessment (EA) considered the proposed plan, 14 alternatives, and a no-action plan, before concluding that the proposed development was the least environmentally damaging practicable alternative (LEDPA). The U.S. Court of Appeals for the Fourth Circuit upheld the district court's ruling in favor of the Corps, finding that the agency adequately explained its decision and established a rational connection between the facts and its LEDPA determination.

Opinion Here

White Cap Beach House, LLC., v. City of North Myrtle Beach, 2026 WL 3459352 (4th Cir. Nov. 13, 2026).

The City of North Myrtle Beach denied White Cap Beach House, LLC's building permit application that included a proposed dune walkover that was not perpendicular to the shore as required by state regulations. White Cap filed suit, alleging in part that the city violated its procedural and substantive due process rights. The U.S. District Court for the District of South Carolina granted summary judgment to the city on the due process claims and denied White Cap's motion to alter or amend the judgment. The U.S. Court of Appeals for the Fourth Circuit affirmed, holding White Cap did not present any protected property interest to support its due process claims, as the proposed construction did not meet mandatory state and local zoning requirements.

Opinion Here

FIFTH CIRCUIT

McCain v. Mary Mahoney's, Inc., No. 25-60663, 2026 WL 3090774 (5th Cir. Oct. 16, 2026).

In 2024, federal prosecutors criminally charged the co-owners and managers of the restaurant Mary Mahoney's, along with its seafood supplier, for intentionally defrauding customers by mislabeling fish imported from overseas as locally sourced. Each defendant pleaded guilty, and the restaurant admitted the scheme began as early as 2002, but no later than 2012, and continued through 2019. As a result, a customer filed a class action lawsuit alleging economic injury because he otherwise would not have purchased the fish and because the mislabeling caused him to pay a premium price for an inferior product. The U.S. District Court for the Southern District of Mississippi dismissed the suit, finding that the plaintiff failed to adequately allege an injury because he consumed his meals without complaint and did not establish that he was served mislabeled fish. On appeal, the U.S. Court of Appeals for the Fifth Circuit reversed, finding that the plaintiff plausibly alleged a concrete and particularized economic injury. The court compared the case to a recent insurance case, reasoning that customers may choose an insurance plan based on its network of providers, just as restaurant customers may choose a meal based on the quality of its ingredients. Furthermore, the court determined that the allegations of systematic and routine mislabeling plausibly supported an inference that the plaintiff personally received mislabeled fish. The court remanded for further proceedings.

Opinion Here

DuFour v. BP Expl. & Prod., Inc., No. 23-60361, 2026 WL 3215980 (5th Cir. Oct. 27, 2026).

Richard DuFour, Jr. was formerly employed by BP Enterprises as a cleanup worker for almost three years following the 2010 Deepwater Horizon oil spill. He was exposed to crude oil and chemical dispersants through inhalation and direct contact. DuFour alleged that these toxic substances caused chronic worsening of his asthma. DuFour filed suit against BP pursuant to the Back-End Litigation Option (BELO) of the Medical Settlement Agreement (MSA) in the Deepwater Horizon class-action litigation. Under the MSA, DuFour's claims required expert testimony to establish causation because they involve non-readily observable injuries with multiple possible causes. The district court excluded DuFour's two causation experts and denied his request for an evidentiary hearing, finding the expert evidence presented was not reliable or relevant. The court granted BP's motion for summary judgment. On appeal, the Fifth Circuit affirmed, holding the district court did not abuse its discretion in excluding the experts and denying the hearing.

Opinion Here

Mississippi

Nat'l. Ass'n. For the Advancement of Colored People v. X.AI Corp., No. 3:26-CV-74-DMB-JMV, 2026 WL 3270169 (N.D. Miss. Oct. 30, 2026).

The National Association for the Advancement of Colored People (NAACP) sued X.AI for Clean Air Act (CAA) violations relating to the operation of a large power plant in North Mississippi, constructed to power a data center in nearby Memphis. The defendants moved to dismiss, claiming the plaintiffs lack statutory standing, the power plant is exempt from permitting requirements under the mobile source exception in Mississippi's CAA State Implementation Plan (SIP), and CAA citizen suits are unconstitutional. The court rejected the argument that associations are precluded from bringing citizen suits for its members due to the CAA's standing requirement for a plaintiff to sue "on his own behalf." The court reasoned that "... just because the plaintiffs' actions in this case benefit their members does not mean that the plaintiffs are not simultaneously acting for their own benefit and interest." The judge also rejected the argument that because the turbines sit on flatbed trailers, they are mobile sources exempt from permitting. Finally, the court rejected the claim that CAA citizen suits are unconstitutional because they vest private individuals with law enforcement powers that are "quintessentially executive." The court rejected the motion to dismiss, allowing the suit to proceed.

Opinion Here

NINTH CIRCUIT

Alaska

Vill. of Solomon v. U.S. Army Corps of Eng'rs, No. 3:25-CV-00073-SLG, 2026 WL 3307019 (D. Alaska Nov. 2, 2026).

Several Alaska Native communities, including the Village of Solomon, challenged the U.S. Army Corps of Engineers' (Corps) issuance of a Clean Water Act (CWA) § 404 permit to IPOP, LLC, authorizing a large-scale gold-mining operation in the Bonanza Channel near Nome, Alaska. The Corps' Alaska District initially denied the permit in 2022, finding the proposed project would cause significant environmental impacts. However, after an appeal, the Corps' Pacific Ocean Division reversed that decision and issued a permit in 2024, concluding that a revised proposal would not significantly harm the environment. The Native communities subsequently sued, alleging violations of the CWA, National Environmental Policy Act (NEPA), and the Administrative Procedure Act (APA). The court found that the Pacific Division failed to adequately explain why it reached differing conclusions from the Alaska District, which had conducted an extensive review and identified significant problems with the scientific studies submitted by IPOP, particularly regarding the project's potential effects on benthic communities and other wildlife. The court concluded the Corps' Environmental Assessment (EA) was incomplete and inadequate, violating NEPA and rendering the permit arbitrary and capricious under the APA. The court also agreed with the plaintiffs that the Corps violated the CWA by issuing the permit without adequately supporting its conclusion that the proposed dredging would not cause or contribute to significant degradation of waters of the United States. Although the plaintiffs requested the permit be vacated, the court ordered additional briefing before deciding the appropriate remedy.

Opinion Here

California

Ctr. for Biological Diversity v. Bureau of Land Mgmt., No. 1:25-CV-00140 JLT CDB, 2026 WL 3228368 (E.D. Cal. Oct. 28, 2026).

A coalition of environmental advocacy organizations alleged that the Bureau of Land Management (BLM) erred in issuing twenty-five permits allowing two companies to drill new oil and gas wells on public land in California's Central Valley. They claimed the permits violated the Clean Air Act, the National Environmental Policy Act, the Mineral Leasing Act, the Federal Land Policy and Management Act, and the Administrative Procedure Act. However, because the plaintiffs failed to establish that their core missions were frustrated, the court held they had not suffered an injury in fact, one of the key elements for standing. The plaintiffs also failed to show any members who would be harmed, which is required to establish associational standing. The defendant's motions to dismiss were granted with leave to amend.

Opinion Here

Hawaii

Wai Ola All. v. United States Dep't. of the Navy, No. CV 22-00272 LEK-RT, 2026 WL 3228225 (D. Haw. Oct. 28, 2026).

An environmental public interest organization and several individual members brought a citizen suit against the U.S. Navy and other federal defendants under the Clean Water Act (CWA). The plaintiffs alleged the Navy's operation of the Red Hill Bulk Fuel Storage Facility and its associated fuel distribution system at Joint Base Pearl Harbor-Hickam resulted in the unlawful discharge of petroleum-based pollutants into Pearl Harbor (Pu'uloa) and Hālawa Stream without the necessary permits. In particular, the lawsuit focused on two fuel releases at the Hotel Pier in 2020 and Kilo Pier in 2021. The plaintiffs sought declaratory and injunctive relief requiring the Navy to comply with the CWA and prevent future unlawful discharges. However, because the Navy fixed the maintenance issues, performed other repairs, and implemented new procedures, the court found that the facility now did not have a reasonable likelihood of future releases as of 2026. The court dismissed the CWA claims as moot but stayed a Resource Conservation and Recovery Act (RCRA) claim to decide in another ruling.

Opinion Here

D.C. CIRCUIT

District of Columbia

Lemmon v. Trump, No. 1:26-cv-00544, 2026 WL 3366671 (D.D.C. Nov. 5, 2026).

A consolidated case brought a motion for a temporary restraining order to halt President Trump and the National Park System's (NPS) plan to construct a 250-foot triumphal arch between the Lincoln Memorial and Arlington National Cemetery. Three Vietnam war veterans and an architectural historian's challenges were combined with the District of Columbia and the Commonwealth of Virginia to bring a halt to the groundbreaking on Nov. 5th, 2026. The court analyzed whether the construction violated the Commemorative Works Act (CWA), which requires that any commemorative work in "areas administered by the National Park Service ... in the District of Columbia and its environs" be "established ... only as specifically authorized by law" through Congress, and subject to specific procedures. Defendants argued the action was authorized one hundred years ago by a statute authorizing construction of the Arlington Memorial Bridge. The court was unpersuaded that a discarded plan for columns enabled present-day construction of the arch, which would include an observation deck, cafe, and anti-drone sensors and military communication equipment. Ultimately, the court determined that all four of the standards for preliminary relief favored DC and Virginia and granted a temporary restraining order while deferring other motions for preliminary injunctions and a stay of agency action.

Opinion Here

DC Pres. League v. Dep't of Interior, No. 1:26-CV-477-ACR, 2026 WL 3407047 (D.D.C. Nov. 9, 2026).

The U.S. District Court for the District of Columbia denied the federal government's motion to stay a preliminary injunction restricting tree removal at the historic East Potomac Golf Course. In January 2026, President Donald Trump announced his intention to renovate the historic golf course. As a result, the D.C. Preservation League and two golfers sought to enjoin the plan to "destroy" the course, but the court initially declined to intervene because no final agency action had been established. In May, the government began removing dead, dying, hazardous, and invasive trees from the property, which it characterized as routine maintenance. However, in October, the government removed hundreds of healthy trees, which the plaintiffs argued were part of a larger renovation project. On October 18, President Trump announced via social media that renovations would begin on November 15. In response, the plaintiffs sought injunctive relief, arguing that the government had improperly segmented the tree removal from the larger project to avoid compliance with the National Environmental Policy Act (NEPA). The district court granted a preliminary injunction, finding that the plaintiffs were likely to succeed on their NEPA claim. The government subsequently moved to stay the injunction pending appeal. Ultimately, the court denied the motion, finding that newly submitted renovation plans confirmed the connection between the tree removal and the larger project.

Opinion Here

Sea Grant Law Center

National Sea Grant Law Center
256 Kinard Hall, Wing E
University, MS 38677-1848

You're receiving this newsletter because you've subscribed to the *Ocean and Coastal Case Alert*.

To view our archive, go to Case Alert Archive.
First time reader? Subscribe now.
Not interested anymore? Unsubscribe instantly.